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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,044

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David J. Laverick

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07/03/2008

GARMIN LTD.

C/O GARMIN INTERNATIONAL, INC.

ATTN: Legal - IP

1200 EAST 151ST STREET

OLATHE, KS 66062

EXAMINER

DIACOU, ARI M

ART UNIT

PAPER NUMBER

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/663,044	<b>Applicant(s)</b> LAVERICK ET AL.	
	<b>Examiner</b> ARI M. DIACOU	<b>Art Unit</b> 3663	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-46 is/are pending in the application.
- 4a) Of the above claim(s) 9-12 and 15-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 13, 14 and 30-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2-27-2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. In the remarks filed 2-27-2008, applicant argued the following:
  - A. On page 9, that Schoenfish does not disclose the carrying case enclosing all sides of the navigation device.
  - B. On page 10, that "Trumbull does not teach removable carrying cases of any sort."
  - C. On page 10, that the combination of Schoenfish and Trumbull would not arrive at the claimed invention.
2. Argument A is moot in view of the new grounds of rejection, which has been necessitated by amendment.
3. Argument B is unconvincing, first "removable carrying cases" are not claimed. Second, applicant made remarks to the wrong reference. Examiner did cite "Trumbull (USP No. 6125030)", the reference number unintentionally referring to Mola. However, Trumbull was cited in the IDS as patent 4105246, and remains the basis for rejection (the citation below has been changed). Thirdly, there is nothing in the claims rejected over Schoenfish Iredale and Trumbull to support applicant's narrow definition of "removable" and "carrying case".
4. Argument C is unconvincing, Schoenfish teaches the idea of a carrying case that fits onto a navigation device to make it securely removable from a dashboard. Trumbull teaches a hinged lid, the combination renders obvious *what is claimed*.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 3-4, 14, 31-33, 38 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenfish (a USP No. 6370037) in view of Iredale (USP No. 6,392,877).

- Regarding claims 1, Schoenfish discloses a navigation assembly for use in a vehicle comprising:
  - a navigational device; and [Fig. 1, #12]
  - a carrying case sized and configured to removably fit substantially within a tray [Fig. 1, #14] recessed downwardly within a top surface of a dashboard running along a windshield of the vehicle [Col. 2, lines 14-16] and configured to substantially enclose the navigational device, [Figs 2 and 3]
  - wherein the case is configured to conform to the tray. [Fig. 2]
- Regarding claims 31, Schoenfish discloses a navigation assembly for use in a vehicle comprising:
  - a navigational device; and [Fig. 1, #12]
  - a carrying case [Fig. 1, #14] sized and configured to conform to a tray [Fig. 1, #10] recessed downwardly within a top surface of a dashboard running along a windshield of the vehicle [Col. 2, lines 14-16],
  - wherein the carrying case may be removed from the tray with the navigational device substantially enclosed therein. [Fig. 2]
- Regarding claim 40, Schoenfish discloses a navigation assembly for use in a vehicle comprising:
  - a navigational device; and [Fig. 1, #12]

- a carrying case configured to substantially enclose the navigational device, [Fig. 1, #14]
- the case being sized and configured to fit within a tray [Fig. 1, #10] on a dashboard of the vehicle such that the case does not move within the tray and is held firmly in place [Col. 2, lines 14-16], by gravity [Col. 3 line 53 says that 34 tapers downwardly, suggesting that surface 24 has at least a component that is perpendicular to gravity] and the close conformity of the case to the tray. [Col. 2, lines 14-16],

But fails to disclose a case that encloses the navigational device on all sides. Iredale teaches a display for a laptop that better facilitates presentation [Fig. 2], and protects the screen of the laptop when not in use. Sandwiched between #34 and #120, display #70 is enclosed on all sides in a down position [Fig. 3]. Therefore, it would have been obvious to one skilled in the art (e.g. an ergonomic engineer) at the time the invention was made, to use a hinged cover to protect the navigation device of Schoenfish.

- Regarding claim 3, 41 and 32, Schoenfish discloses [Col. 2, lines 14-16].
- Regarding claims 4 and 33, Schoenfish discloses Col. 5, lines 10-18.
- Regarding claims 14 and 38, the limitations thereof are inherent to all GPS devices disclosed by Schoenfish.

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9. Claims 5-8, 30, 34-37, 39, 43 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenfish and Iredale as applied to claims 1, 31 and 40 above, and further in view of Trumbull (USP No. 4105246).

- Regarding claim 5, 34 and 45, Schoenfish discloses the invention with all the limitations of claims 1 and 31, but fails to disclose a lid. Trumbull teaches a compartment with a hinged lid that could be used to enclose the device of Schoenfish. Therefore, it would have been obvious to one skilled in the art (e.g. an ergonomic engineer) at the time the invention was made, to place device of Schoenfish in the compartment of Trumbull, for the advantage of protecting the device of Schoenfish.
- Regarding claims 6 and 35 and 46, Schoenfish discloses [Col. 2, lines 17-20].
- Regarding claims 7, 36 and 43, Schoenfish's device has a speaker, therefore, it would be contained in the case of Trumbull in the obvious combination described above.
- Regarding claims 8, 30, 37 and 39, Trumbull's device has a recessed base that would enclose the navigational device, and the speaker enclosed therein.

Therefore, both would be positioned within the base of the case.

10. Claims 13, 37 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenfish and Iredale as applied to claims 1 and 31 above, and further in view of Hsu (USP No. 5812369). Schoenfish and Iredale disclose the invention with all the limitations of claims 1, 31 and 40, but fails to disclose a hinged lid containing the GPS

and the speakers. Hsu teaches a laptop wherein the display [#12] and speaker [#14] are both positioned within a lid [#30] of the case, such that when the case is open, the navigational device is in a viewing position [Fig. 1]. Therefore, it would have been obvious to one skilled in the art (e.g. an ergonomic engineer) at the time the invention was made, to use the presentation strategy of Hsu, for the advantage of covering the screen for protection when not in use.

11. Claims 30, 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenfish (and Hsu) and Iredale as applied to claims 1, 31 and 40 above. Iredale further teaches :

- wherein the carrying case includes a base and a hinged [178] lid [128],
- such that when the navigational device [Place the navigational device of Schoenfish at position 70 of Iredale] is pivoted to a flat, nesting position within the case [Fig. 3], the lid is operable to enclose the navigational device, [#62] [#78/#82]
- and when the navigational device is pivoted upwards in a viewing position, the lid [Fig. 2, #146] is operable to pivot upwards and rest generally against a top of the navigational device [Fig. 2, #70]

Therefore, it would have been obvious to one skilled in the art (e.g. an ergonomic engineer) at the time the invention was made, to use the display strategy of Iredale with the idea of Schoenfish, for the advantage of having an improved clamshell type housing that facilitates adjustment of the display screen to a comfortable viewing angle.



***Conclusion***

12. The references made herein are done so for the convenience of the applicant. They are in no way intended to be limiting. The prior art should be considered in its entirety.

13. The prior art which is cited but not relied upon is considered pertinent to applicant's disclosure.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE **FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ari M. Diacou whose telephone number is (571) 272-5591. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/AMD/

3-Jul-08

/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663